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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,555	11/12/2003	John W. Mickelson	PC27721A	6894
28523 7590 01/30/2007 PFIZER INC. PATENT DEPARTMENT, MS8260-1611 EASTERN POINT ROAD GROTON, CT 06340			EXAMINER TUCKER, ZACHARY C	
			ART UNIT	PAPER NUMBER
			1624	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/30/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/706,555

Applicant(s)

MICKELSON, JOHN W.

Examiner

Zachary C. Tucker

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 4,6-13 and 17-21 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

As requested in the correspondence from applicant, filed 17 November 2006 (hereinafter "present amendment"), which is in reply to the Office action mailed 18 July 2006 (hereinafter "previous Office action"), claim 5 has been amended to remove the first and third recited compound names.

The status identifier shown for instant claim 5 - "(original)" - is incorrect. Claim 5 should have been indicated as "(currently amended)."

Election/Restrictions

An election of species requirement is operative in the prosecution of the instant application. Since the present amendment does not overcome all of the rejections of record, based on prior art applied in the previous Office action, the search has not been expanded or continued. Prior art applied in the previous Office action still renders the presently amended claims unpatentable, as explained in the following paragraphs.

Because the elected Restriction Group (Group I) is not in condition for allowance, claims drawn to the nonelected inventions remain withdrawn from consideration at this time (claims 6-13 and 17-21).

Status of Claim Rejections - 35 USC § 103

In the previous Office action, claims 1-3, 5 and 4-16 were rejected as being unpatentable over United States Patent Application Publication 2003/0018035 (Yoon et al).

In view of the present amendment, the rejection of claim 5 as being obvious over Yoon et al is hereby withdrawn.

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Claims 1-3 and 14-16 remain rejected under 35 U.S.C. 103(a) as being unpatentable (obvious) over Yoon et al.

Remarks of applicant's counsel provided with the present amendment state: "The examiner has not established a *prima facie* case of obviousness," yet offer no explanation as to why this conclusion had been reached. Thus, there is little that can be said in rebuttal. Yoon et al renders compounds of the present invention as specified in instant claims 1-3 and 14-16 obvious. The 3,6-diethyl substitution on the pyrazine nucleus is expressly suggested in the Yoon et al reference, and in fact is the preferred 3,6-dialkyl substitution pattern.

The rejection of claims 1-3 and 14-16, under 35 U.S.C. 103(a), based on Yoon et al, is maintained.

Allowable Subject Matter

Claim 5 is allowed.

The closest prior art with respect to instant claim 5 is the Yoon et al reference. Other pertinent close prior art was cited on pages 9 and 10 of the previous Office action.

Comments pertaining to the rejoinder of the withdrawn method of treatment claims were provided on page 10 of the previous Office action. Applicant is urged to amend the method-of-treatment claims to the treatment of depression, anxiety and drug or alcohol withdrawal symptoms (and related conditions). Doing so will ensure entry of an amendment presented after this Final Rejection, as that amendment may be denied entry if it presents new patentability issues, such as a lack of enablement, as required by the first paragraph of 35 U.S.C. 112.

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Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Zachary Tucker whose telephone number is (571) 272-0677. The examiner can normally be reached Monday to Friday from 5:45am to 2:15pm. If Attempts to reach the examiner are unsuccessful, contact the examiner's supervisor, James O. Wilson, at (571) 272-0661.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.



ZACHARY C. TUCKER
PRIMARY EXAMINER